



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

August 16, 2024

By ECF

The Honorable Jennifer L. Rochon
United States District Judge
500 Pearl Street
New York, NY 10007

Re: *Natural Resources Defense Council, Inc. v. United States Department of Energy*,
No. 24 Civ. 2113 (JLR)

Dear Judge Rochon:

This Office represents the Department of Energy (the “Government”) in the above-referenced action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* We write to update the Court on the status of discussions with plaintiff Natural Resources Defense Council (“NRDC”) and the work the Government has undertaken to date in response to NRDC’s FOIA request, and to respectfully request (1) a status conference to discuss the Court’s preferred process to resolve the parties’ dispute concerning the Government’s processing rate; and (2) a two-month extension of time, from September 6, 2024, to November 6, 2024, for the Government to respond to the Complaint.

Since the Government wrote to the Court on July 15, 2024, the Government and NRDC have engaged in further discussions about NRDC’s FOIA request. The Government is continuing to process the FOIA request. The Government processed 561 pages this past month and on August 7, 2024, made a production of 65 pages of responsive and non-exempt records. The Government intends to process at least another 400 pages of potentially responsive records in the next month, and expects to produce any responsive, non-exempt portions of the records by September 7, 2024. There are approximately 1,642 pages remaining to be processed in response to NRDC’s request that were identified in DOE’s search to date, and the Government intends to process 400 pages per month in the coming months. The parties have not reached agreement on the adequacy of the Government’s search to date.

Despite good-faith negotiations over several months, the Government and NRDC have reached an impasse in their discussions concerning a schedule for future productions of records responsive to NRDC’s request. To facilitate resolution of this dispute, the parties respectfully request either (i) a status conference with the Court to discuss this issue and the Court’s preferred procedural approach that will conserve the Court’s and the parties’ resources in resolving the dispute; or (ii) that the Court grant NRDC leave to file a letter motion no later than August 26, 2024, asking the Court to impose a processing rate upon the agency, and permitting the Government to file a response no later than September 9, 2024, including by attaching any declarations supporting its response, and permitting NRDC to file a reply no later than September 16, 2024. The parties are available on August 22 or August 28, 2024, for a status conference, or

can be available on another date convenient to the Court if the Court wishes to hold such a conference.

The Government also respectfully requests a two-month extension of time, from September 6, 2024, to November 6, 2024, for the Government to respond to the Complaint so that the Government can prioritize processing the FOIA request and resolving any outstanding issues. NRDC does not oppose the request for an extension for the Complaint.

I thank the Court for its attention to this matter.

Respectfully,

DAMIAN WILLIAMS
United States Attorney

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cc: Plaintiff's Counsel (By ECF)